



**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:	)	
	)	
DESPINA LUCAS-WATCHINSKI,	)	
	)	
Complainant,	)	
	)	Charge No.: 2000CF0842
and	)	EEOC No.: 21BA00183
	)	ALS No.: 11428
ABBOTT LABORATORIES, d/b/a	)	
TAP PHARMACEUTICAL,	)	
	)	
Respondent.	)	

**RECOMMENDED ORDER AND DECISION**

On November 28, 2000, Complainant, Despina Lucas-Watchinski, filed a complaint on her own behalf against Respondent, Abbott Laboratories, d/b/a TAP Pharmaceutical. That complaint alleged that Respondent discriminated against Complainant on the basis of a perceived mental handicap when it refused to hire her on a permanent basis.

Instead of filing an answer to the complaint, Respondent filed a motion to dismiss. Complainant did not file a written response to the motion, and although she was given proper service, she did not appear when the motion was presented. The matter is ready for decision.

**FINDINGS OF FACT**

The following findings of fact were derived from the record file in this matter.

1. Complainant filed a charge of discrimination, number

2000CF0389, against Respondent on October 25, 1999.

2. The Illinois Department of Human Rights (IDHR) dismissed charge number 2000CF0389 for lack of jurisdiction on October 16, 2000.

3. Complainant did not file a timely Request for Review on her dismissed charge.

4. On November 28, 2000, Complainant filed her complaint before the Human Rights Commission.

#### CONCLUSIONS OF LAW

1. The IDHR's dismissal of Complainant's charge was a final order disposing of that charge.

2. The Human Rights Commission has no authority to consider the complaint filed by Complainant.

3. The complaint in this matter must be dismissed with prejudice.

#### DISCUSSION

Complainant filed a charge of discrimination against Respondent on October 25, 1999. Approximately a year later, on October 16, 2000, the Illinois Department of Human Rights (IDHR) dismissed Complainant's charge for lack of jurisdiction. Complainant did not file a timely Request for Review on her charge. Instead, she filed a complaint against Respondent before the Human Rights Commission.

Under section 5/7A-102(G)(1) of the Human Rights Act (775 ILCS 5/1-101 *et seq.*), once the time for investigation has run,

the IDHR "shall either issue and file a complaint ... or shall order that no complaint be issued and dismiss the charge with prejudice without any further right to proceed." In the instant case, the IDHR determined that no complaint should be issued on the charge. Once that determination was made, Complainant lost any opportunity to file a complaint on her own behalf before the Commission. ***Wallace v. Illinois Human Rights Commission***, 261 Ill. App. 3d 564, 633 N.E.2d 851 (1st Dist. 1994). At that point, Complainant's only remedy was to file a timely Request for Review.

Because the IDHR had already dismissed the underlying charge and ordered that no complaint be filed, and did so before Complainant filed her complaint, the Human Rights Commission never acquired the authority to consider that complaint. As a result, that complaint must be dismissed with prejudice.

#### RECOMMENDATION

Based upon the foregoing, the Human Rights Commission has no authority to hear the complaint filed in this matter. Accordingly, Respondent's motion to dismiss should be granted and the complaint dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
MICHAEL J. EVANS  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

ENTERED: February 6, 2001